

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ERNESTO BENAVIDEZ,

Plaintiff,

vs.

No. CIV 13-1229 JB/WPL

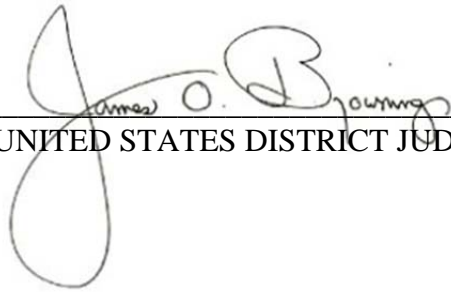
RAMON C. RUSTIN,  
TOM ZDUNEK, and  
THOMAS E. SWISSTACK,

Defendants.

**ORDER OF DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff Ernesto Benavidez's response to the Court's Order to Show Cause, filed March 5, 2014 (Doc. 21), which required Benavidez to make an initial partial payment toward the filing fee. In response to the order, Benavidez submitted a Pick Ticket, filed March 12, 2014 (Doc. 24)("Commissary Account Statement"), but did not make a payment or otherwise show cause why payment should be excused. The Commissary Account Statement shows a balance in his account, as did his earlier financial filings, see Pick Ticket, filed January 13, 2014 (Doc. 6); Financial Certificate, filed January 28, 2014 (Doc. 11), and he does not deny actual ability to pay. Because Benavidez has not complied with statutory filing requirements and Court orders, or shown cause for excusing the failure, see Baker v. Suthers, 9 F. App'x 947, 950 (10th Cir. 2001), the Court will dismiss Benavidez's Civil Rights Complaint Pursuant to 42 U.S.C. 1983, filed December 26, 2013 (Doc. 1), without prejudice.

**IT IS ORDERED** that Plaintiff Ernesto Benavidez's Civil Rights Complaint Pursuant to 42 U.S.C. 1983, filed December 26, 2013 (Doc. 1), is dismissed without prejudice, pending motions are denied as moot, and judgment will be entered.



UNITED STATES DISTRICT JUDGE

*Parties:*

Ernesto Benavidez  
Metropolitan Detention Center  
Albuquerque, New Mexico

*Plaintiff pro se*